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Introduction

In accordance with the City Auditor’s 1998-1999 Audit Workplan, we have audited the Building Code Compliance Program of the Code Enforcement Division of the Department of Planning, Building, and Code Enforcement (BCCP). This is the fourth in a series of audit reports on Code Enforcement. We conducted this audit in accordance with generally accepted government auditing standards and limited our work to those areas specified in the Scope and Methodology section of this report.

The City Auditor’s Office thanks the Code Enforcement staff who gave their time, information, insight, and cooperation during the audit process.

Background

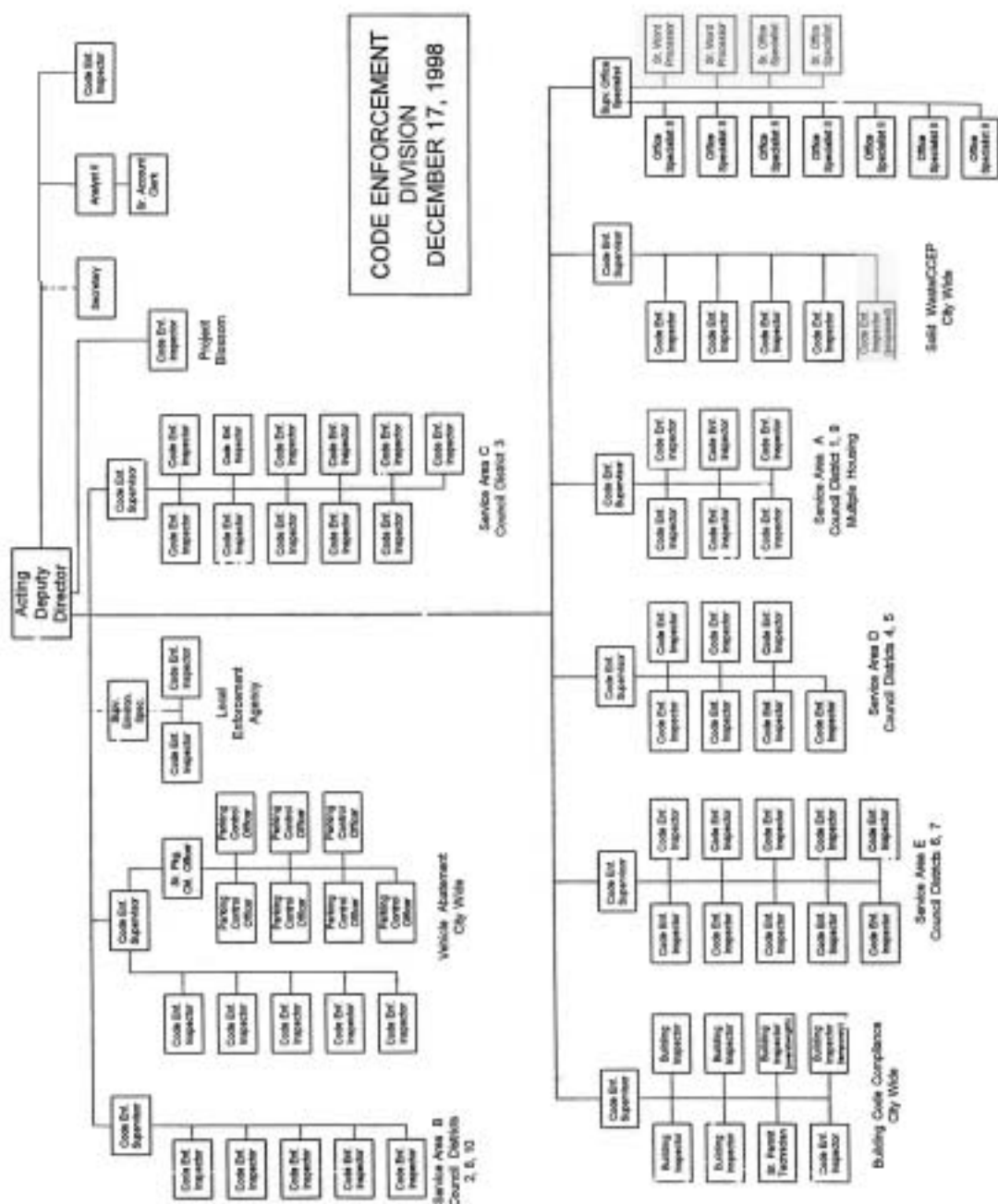
Code Enforcement’s program mission is to work in partnership with the people of San Jose, provide citywide education and enforcement to promote and maintain a safe and desirable community consistent with health and safety regulations. Code Enforcement enforces various ordinances to promote the health, safety, and appearance of the City of San Jose. Specifically, Code Enforcement investigates and abates complaints involving land use (zoning), housing conditions, abandoned vehicles, signs, fences, and general public nuisances. Code Enforcement also monitors landfill and recycling sites to ensure their proper operation and adherence to federal, state, and local codes.

The Building Code Compliance Program (BCCP) is responsible for investigating individuals suspected of constructing residential structures without required Building permits and bringing such structures into compliance with State and City of San Jose Building codes.

Budget And Staffing

Code Enforcement’s 1999-2000 Operating Budget is \$7.3 million, which includes \$6.6 million for personal services, about \$780,000 for non-personal expenditures, and 100 full time employees (FTEs).

Code Enforcement is organized into five service area groups and three additional groups – Vehicle Abatement, Solid Waste/Concentrated Code Enforcement Program, and Building Code Compliance. Each of the five service area groups covers one or more City Council Districts. Code Enforcement’s organization chart is shown on the next page.



As shown on Code Enforcement's organization chart, as of December 1998, Code Enforcement had one supervisor, six building inspectors (one over-strength and another temporary), a senior permit technician, and a code enforcement inspector assigned to the BCCP. All of these positions with the exception of the supervisor were funded with Building Division fees.

**Scope And
Methodology**

The scope of our audit was to determine if Code Enforcement had resolved its active and closed Building Code compliance cases in a timely manner and to identify the causes of any untimely resolution. To determine the length of time that cases have been open we reviewed case files for 188 properties.

Specifically, we requested a list of all Building Code Compliance cases closed in calendar year 1998 and all active cases as of January 15, 1999. Included in this data were the number of days the cases had been open. We obtained a listing of all active cases as of January 21, 1999 and a listing of all cases each Building Code Compliance Inspectors (BCCI) closed from 1991 to 1998. We selected only those cases closed in 1998 for our review. We divided the active and closed cases into three timeframes - cases that had been open for less than 6 months, 6 months to 1 year, and longer than 1 year.

We identified the total number of cases we would review from each timeframe by first dividing the number of cases in each timeframe by the total number of cases. We then multiplied the calculated percentage for each timeframe to our total sample size to determine the number of cases we would sample for each timeframe.

We next divided our calculated sample size for each timeframe into the number of cases for each timeframe to calculate our sample interval.

For example, we calculated that 33.5 percent of the closed cases fell into the less than 6 months timeframe. We then multiplied the 33.5 percent by the 60 closed cases we wanted to sample. This produced a sample size of 20 closed cases that were open for less than 6 months. Next, we divided the 281 cases that Code Enforcement closed in less than 6 months by our sample size of 20 cases to arrive at a sample interval of every 14th closed case. We repeated this process for the other two timeframes.

During the course of our review, we added six active and two closed cases to our sample size. Our final sample size was 66 active cases and 62 closed cases, for a total of 128 cases. We abstracted information on these 128 cases from Code Enforcement's VAX database, the Building Code Compliance workload database, and Building Division records. We utilized these other sources of information because we were not able to obtain complete information for eight active cases and 16 closed cases.

We also selected 60 cases from the inventory of shelved Building Code Compliance cases. Code Enforcement stores these cases in eight boxes that are located in the closed file room. We reviewed ten cases from each of six boxes by selecting every 10th case starting from the first case at the front of the box. In addition, we counted the number of cases in the eight boxes and determined that there were 1,315 shelved cases in all.

We also used Code Enforcement's logbook for the months of January 1999 to April 1999 to select 75 cases to determine the lengths of time BCCIs used to review and approve plans. We calculated the number of days from when the logbook indicated a Responsible Party submitted a set of plans to the date the Building Division issued the permit. We used a final date of June 4, 1999¹ to calculate the number of days involved when the Building Division had not as yet issued a permit.

We used a final date of July 19, 1999,² to calculate the length of time cases had been open and the length of time cases were open after the final compliance date expired.

We also used a final date of March 10, 1999³, to determine whether Code Enforcement Inspectors conducted site visits to verify compliance with cease orders.

We used 30.5 days in our calculations to determine the number of months. For example, if our review determined that a case had been active for 500 days, we divided it by 30.5 days to determine the number of months this equaled. We then divided the number of months by 12 to calculate the number of years. We only examined cases dealing with residential properties.

¹ June 4, 1999 was the last day that we reviewed the Building Division's permit database to determine if the Responsible Parties had obtained a permit.

² July 19, 1999 was the last day that we reviewed the case files in our sample to determine the dates Code Enforcement Inspectors conducted site inspections.

³ March 10, 1999 was the last day that we reviewed the case files in our sample to determine the dates Code Enforcement Inspectors conducted site inspections.

We performed only limited testing of the various computer reports and databases we used during our audit. We did not review the general and specific controls for the computer systems used in compiling the various computer reports and databases we used.

**Major
Accomplishments
Related To This
Program**

In Appendix B, the Director of the Planning, Building, and Code Enforcement Department informed us of major Building Code Compliance Program accomplishments undertaken by the Department. The Department's major accomplishments include the following:

- Implemented the transfer of the Building Code Compliance Program from the Building Division to the Code Enforcement Division;
- Improved the coordination between the Building Division and the Code Enforcement Division;
- Added Building Code Compliance positions;
- Improved Building Inspector appointment scheduling;
- Converted the Building Code Compliance database into the new Code Enforcement System and merged the Building Code Compliance cases into the new system; and
- Consolidated the duplicate cases.

Finding I

Code Enforcement Does Not Resolve Building Code Compliance Cases In A Timely Manner

The Building Code Compliance Program (BCCP) is located within the Code Enforcement Division (Code Enforcement) of the Department of Planning, Building and Code Enforcement (Department). The BCCP is responsible for investigating individuals suspected of constructing residential structures without required Building permits and bringing such structures into compliance with State and City of San Jose Building Codes. We found that Code Enforcement does not resolve Building Code Compliance cases in a timely manner. Specifically, we identified that active and closed cases were open an average of 17 months and 10 months, respectively, while one case was open for more than five years. Moreover, our sample of cases did not include over 1,300 backlogged cases that Code Enforcement is not working. This backlog includes cases that are about 15 years old. Code Enforcement's inability to resolve BCCP cases in a timely manner is due to:

- the BCCP lacking a clear mission, goals and objectives;
- a problematic BCCP organizational structure;
- BCCP processes that are inefficient and ineffective; and
- an ineffective system of controls over the BCCP.

Code Enforcement can improve the performance of the BCCP by developing a clear BCCP mission statement, and definitive goals and objectives. Code Enforcement should also improve Code Enforcement Inspector (CEI) and Building Code Compliance Inspector (BCCI) communication and coordination. Furthermore, Code Enforcement should either transfer the plan checking activities to the Building Division or dedicate staff to those activities and should transfer certain types of cases to the Building Division. In addition, Code Enforcement and the Building Division should redo their written understanding to ensure that it is consistent with actual practice. Finally, Code Enforcement needs to re-examine and modify, if necessary, its current procedures, ensure staff adherence to procedures, and improve its BCCP management information.

Building Code Compliance Program

The BCCP is currently located within the Code Enforcement Division. The BCCP is charged with investigating individuals suspected of doing construction without the required Building permits and ensuring that such buildings are brought into compliance with State and local Building Codes.

The BCCP is basically complaint driven. Individuals that suspect illegal construction can contact Code Enforcement to report the situation. Code Enforcement assigns these cases to CEIs who are then required to investigate each allegation to determine its validity. If after the initial investigation, the CEI determines that the case involves a Building Code violation, a Compliance Order (CO) is issued to the Responsible Party (RP). The CO should outline the Building Code violations and the actions the RP must take to resolve the violations. The CO also identifies the date by which the RP must complete all construction work and have a BCCI sign-off on the final permit.

If the CEI determines that a Building Code violation exists, the CEI directs the RP to contact the CEI by a date specified in the CO to schedule a Building Code Compliance inspection. Prior to this inspection the CEI will provide the BCCI assigned to the case with a copy of the CO and the results of any research conducted.

The CEI is responsible for monitoring the case from start to finish. That includes making sure that the RP 1) schedules an initial Building Code Compliance inspection, 2) submits required construction plans, 3) obtains all required permits, and 4) completes all the work within the specified timeframe. Only the CEI can extend the compliance dates through an Amended CO. The CEI cannot extend the CO dates verbally.

Code Enforcement also assigns the Building Code Compliance case to a BCCI who handles the Building Code issues. The BCCI is responsible for conducting the Building Code Compliance inspections and preparing Inspection Notices that detail the status of the RP's work. In addition, the BCCI is responsible for reviewing all the construction plans that the RPs submit and ensuring that they are correct and acceptable before approval. Once approved, the BCCI returns the plans to the RP who must then obtain the required permits from the Building Division. Once the RP completes all the required work according to the plans and permit, the BCCI will conduct a final

inspection to sign-off on the permit. The CEI closes the case after receiving a copy of the final permit.

Building Code Compliance Cases Do Not Get Resolved In A Timely Manner

Code Enforcement has recognized its responsibility to resolve Building Code violations in a timely manner by issuing procedures that dictate the timeframes for resolving such violations. Code Enforcement's procedures allow RPs up to 6 months to resolve violations if Building or Planning permits are needed.

We found, however, that Code Enforcement was not resolving its Building Code Compliance cases in a timely manner. Specifically, we identified numerous cases that were unresolved for more than one year. For instance, the active cases we reviewed had been open for an average of 525 days or 17 months. This average will undoubtedly increase because many of the cases in our review remained open beyond July 19, 1999, the cut-off date we used for our calculation. Furthermore, none of the active cases were open for less than 180 days. Moreover, 21 out of 39 cases (54 percent) in our sample were open for over a year and 7 out of the 39 cases (18 percent) were open for over 2 years.

We identified one case which had unresolved violations for almost 5½ years. This case began in 1994 when Code Enforcement identified numerous violations at this property. Among other things, the CEI found a converted basement, a mobile home, an open trailer, and a converted rear addition. As a result of the inspection, Code Enforcement ordered the RP to vacate the mobile home and garage immediately, restore the basement to storage, and relocate the mobile home. Code Enforcement did not, however, follow up on this case to ensure compliance with code regulations. In fact, Code Enforcement did not take any action on this case until 1998, almost 4 years after it first identified the violations.

On February 11, 1998 a CEI visited the property and observed that the basement was still occupied and the mobile home was still in the rear yard. The CEI issued another CO to vacate the illegally converted basement and mobile home. Code Enforcement lost the required construction plans that the RP had submitted. Code Enforcement obtained copies of the construction plans 3 months after the RP first submitted them. Contrary to Code Enforcement procedures, the CEI gave

the owner a verbal extension on the compliance date because Code Enforcement lost the construction plans.

In January of 1999, nearly a year after the second written order to vacate, a BCCI visited the same property and discovered that the rear addition was still occupied. The BCCI asked the RP to again submit plans to demolish all unpermitted additions and structures. However, we found that this case is still open and as of July 19, 1999, had been active with unresolved Building Code violations for over 5 years.

Our review of closed cases revealed similar cases. Specifically, the 47 closed cases we reviewed were open for an average of 299 days or almost 10 months. Although 34 percent of them were open for less than 180 days, over 21 percent were open for more than one year.

Our sample included a case which had unresolved violations for 840 days. Code Enforcement received the initial complaint on this case in June 1996. The CEI made a complete inspection over 2 weeks later. This inspection revealed an accessory structure that the RP had converted to a living space. The CEI issued an Official Warning Notice that required the RP to vacate the structure immediately. A BCCP inspection was ordered but did not take place until September 1996. Subsequent to that inspection, Code Enforcement did nothing on this case for nearly a year. In August 1997, Code Enforcement informed the RP that Code Enforcement had lost all information from the September 1996 compliance inspection. A BCCI performed another Building Code Compliance inspection in November of 1997 and verified that the structure had in fact been vacated. Code Enforcement eventually closed this case in October 1998, over 2 years after it first identified the violations.

The following exhibit shows, for our sample cases, the number of days it took Code Enforcement to close BCCP cases and the number of days the active BCCP cases had been open.

Exhibit 1 Summary Of Days Required To Close Or Number Of Days Case Still Open For Sampled BCCP Cases

Number Of Days Case Was Or Has Been Open	Sample Of Complaints Closed In 1998		Sample Of Complaints Still Active As Of January 21, 1999	
	Number	Percentage	Number	Percentage
180 days or less	16	34.0%	---	---
181 to 360 days	21	44.7	18	46.2%
361 to 540 days	7	15.0	7	17.9
541 to 720 days	1	2.1	7	17.9
721 to 900 days	1	2.1	1	2.6
901 days or more	1	2.1	6	15.4
Totals	47	100.0%	39	100.0%

It should be noted that Exhibit 1 does not include data from the shelved cases we reviewed. We sampled 60 shelved cases from a universe of over 1,300 identified properties with Building Code violations similar to those in the open and closed cases. These shelved cases included Building Code violations that the City first identified as early as 1984 and as late as 1996 but never resolved. Finding II is a more detailed discussion of these 1,300 cases.

Causes Of The Untimely Resolution Of Cases

The active and closed BCCP cases in our sample were open for an average of 17 and 10 months, respectively. Some cases, however, have had unresolved violations for several years. In addition, Code Enforcement has never fully addressed or resolved its shelved BCCP cases. This lack of efficient and timely case resolution can be attributed to several factors including:

- the BCCP lacks a clear mission, goals and objectives;
- a problematic BCCP organizational structure;
- BCCP processes that are inefficient and ineffective; and
- an ineffective system of controls over the BCCP.

BCCP Lacks A Clear Mission, Goals And Objectives

An organization's mission statement brings it into focus and explains why it exists, what it does, and describes how it does it. Goals are an outgrowth of a clearly defined mission and explain the purposes of the organization's programs and the results they are intended to achieve. A well-defined mission

statement is critical because it forms the foundation for key systems and processes an organization uses to ensure the successful outcome of its operations. The BCCP does not have a well-defined mission statement and Code Enforcement staff does not have a clear direction to follow. This is partly a result of the BCCP's movement from one department to another in recent years.

The BCCP has been located in three different Departments in the 1990s. During the early 1990s, the BCCP was part of the Neighborhood Preservation Department. This Department assigned three BCCIs to the BCCP that conducted inspections arising from housing transfers and Building Code complaints. In addition, the BCCIs reviewed the construction plans for the properties that they inspected.

In 1992-93 the BCCP became part of the Planning and Building Department. Shortly after assuming responsibility for the BCCP, the Department reduced the staffing level for the BCCP to one BCCI. The Department made this reduction because it wanted to emphasize the growing demand for new construction inspections. The BCCP continued to have only one BCCI until the Administration transferred the responsibility for the BCCP to Code Enforcement.

The BCCP became part of Code Enforcement in 1996-97 through a written understanding with the Building Division. As part of the understanding, Code Enforcement assumed responsibility for all Building Code violations and illegal construction activity where there was no building permit. Although Code Enforcement was responsible for assigning and managing the BCCIs' day-to-day duties, the Building Division retained technical authority over the BCCIs' work. In addition, Code Enforcement and the Building Division jointly prepared the BCCIs' performance evaluations. Upon taking over the BCCI, Code Enforcement increased the staffing level to three BCCIs.

The following diagram shows from 1991-92 to 1999-2000 the movement of the BCCP, its staffing levels, and responsibilities.

Location Of Building Code Compliance Program In The 1990s

Timeframe:	To 1992	1992 To 1996	1996 To Present
Department:	Neighborhood Preservation	Planning and Building	Planning, Building and Code Enforcement
Division:	Building Code Enforcement	Building	Code Enforcement
Staffing Level:	Three inspectors	One inspector	Currently five inspectors
Building Code Compliance Inspector Responsibilities:	Inspections resulting from complaints and housing transfers, and reviewing construction plans. Ensure Responsible Parties comply with set deadlines	Inspections resulting from complaints and housing transfers ⁴ , and reviewing construction plans. Ensure Responsible Parties comply with set deadlines.	Inspections resulting from complaints and reviewing construction plans. ⁵

The Neighborhood Preservation Department gave the BCCP little direction and support. During that time the three BCCIs assigned to the BCCP were required to conduct all Building Code Compliance inspections arising from complaints or requests for compliance inspections and review all the construction plans RPs submitted. The large number of required inspections and the significant amount of time devoted to reviewing plans resulted in (1) a limited number of inspections actually taking place, (2) many individuals not receiving a compliance inspection despite paying as much as \$260, and (3) the creation of a backlog of cases. Neighborhood Preservation basically allowed the BCCIs to address many of the complaints by simply sending out letters to the RP asking them to correct the Building Code violations. However, the BCCIs conducted no follow-up inspections to ensure that RPs complied with the letters.

The Planning and Building Department gave the BCCP even less attention after the Administration transferred it there in 1992-93. Although the BCCIs retained many of the same duties and responsibilities, the Building Division reduced the number of BCCIs to only one. As a result, the number of backlogged Building Code Compliance cases that received little or no attention increased.

After Code Enforcement increased the number of BCCIs from one to three in 1996-97, it also shifted the responsibility for managing Building Code Compliance cases from the BCCIs to CEIs. Code Enforcement assumed full responsibility for

⁴ Building Division stopped providing housing transfer inspections in 1993-94.

⁵ Code Enforcement Inspectors assumed responsibility for ensuring that responsible parties complied with set deadlines after the BCCP became part of Code Enforcement.

managing all cases where the RP had not obtained a permit prior to commencing construction regardless of how complex the project was or how long it would take to resolve all violations. In addition, a major BCCP responsibility was the review of all RP submitted construction plans.

As part of the 1998-99 budget, Code Enforcement asked for and received two additional BCCIs for the BCCP. This brought the staffing level for the program to five BCCIs for 1998-99. Code Enforcement asked for these additional positions to address the high volume of cases. More specifically, it stated that one position would be permanent to address the ongoing caseload volume and the other would be a temporary position for one year to address the current backlog of cases.

Because of the BCCP’s transient organization location and shifting responsibilities, management has not formally defined the BCCP’s purpose and intended results. In our opinion, Code Enforcement needs to develop a clear mission, goals, and objectives for the BCCP.

We recommend that Code Enforcement:

Recommendation #1

Develop a clear mission, goals, and objectives for the Building Code Compliance Program. (Priority 3)

Organizational Problems Impair Code Enforcement’s Ability To Effectively Deliver Building Code Compliance Services

In order to improve BCCP efficiencies and responsiveness, Code Enforcement needs to establish an appropriate organization structure that fits the needs of its operations. Code Enforcement should also assign responsibilities and establish accountability for the BCCP. Further, Code Enforcement needs to monitor actual BCCP performance against specified standards and clarify reporting relationships.

Code Enforcement is organized into five Service Areas. Each Service Area has a team staffed with CEIs and a Supervisor. The Supervisor and CEIs are responsible for the quality of neighborhoods, and the Supervisors may move resources as needed to focus on changing priorities and conditions within their Service Areas. Each of the Service Areas includes one or more City Council Districts. The BCCP team is one of Code Enforcement’s three teams that provide assistance to all of the five Service Area teams on Building Code Compliance cases.

*Code Enforcement
Needs To Establish
An Appropriate
Organization
Structure*

CEIs, who are part of Service Area Teams, are responsible for managing cases in their respective Service Areas from start to finish and ensuring that the RP addresses all the identified violations within procedurally specified timeframes. The CEIs set the RPs' compliance timeframes for completing all the construction work and resolving all the violations after their initial site inspection. They rely heavily on the BCCIs to determine the extent and severity of the violations, the required corrections, and the status of the RPs' efforts to comply. CEIs do not, however, take advantage of the BCCI's Building Code and construction expertise when determining the amount of time that Code Enforcement should allow RPs to complete required construction work.

BCCIs provide Building Code expertise to Code Enforcement. However, BCCIs are not accountable to either the CEIs or their respective supervisors. Instead, BCCIs report to a Code Enforcement supervisor that acknowledges he does not have the expertise to evaluate the quality of the BCCIs' work. Further, Building Division supervisors who rarely have direct contact with BCCIs provide technical supervision for the BCCIs. The following flowchart describes the BCCP processes and explains the responsibilities of the different parties involved.



The above situation exists because of the written understanding between Code Enforcement and the Building Division. Specifically, the understanding requires Code Enforcement to assign and manage the BCCIs' day-to-day duties, procedures, priorities, and work, while the Building Division provides the technical oversight over the BCCIs' work.

This understanding-required working arrangement has created some apparent difficulties. For example, some CEIs told us that once Code Enforcement refers a case to the BCCIs, the CEIs lose some control of the case. This is because the BCCIs control the site inspection and plan check resources. During a BCCP meeting, the BCCIs acknowledged that they have an impact on the amount of time required to resolve Building Code violations. Heavy workloads, including time consuming plan reviews, reduce BCCIs' ability to conduct timely Building Code Compliance inspections.

Some CEIs believe that BCCIs and CEIs do not share the same appreciation for getting cases resolved as quickly as possible. Several BCCIs responded that it is the CEIs who are ultimately responsible for ensuring that Building Code Compliance cases receive the appropriate oversight and RPs meet all the timeframe requirements and address all violations before Code Enforcement closes the case. Further, if CEIs have concerns about BCCI efforts or priorities, they should talk to their Service Area supervisors, who should talk to the BCCI supervisor, who should talk with the BCCIs. The BCCI supervisor should then respond back to the CEIs' supervisor, who should finally inform the CEIs of the outcome of the discussions.

These organizational disconnects have caused coordination problems for Code Enforcement when resolving Building Code violations. For example, in one case an RP had to submit the same construction plans to Code Enforcement twice because the BCCI lost them. As a result, the CEI had to amend the CO to allow the RP an additional 2 months to complete the project. In another case, the BCCI lost the construction plans and case file for a property. The RP did not resubmit the plans for 3 months. Code Enforcement assigned another BCCI to the case 6 months after the RP resubmitted the plans. The CEI had to recreate a new file and construction plan for the newly assigned BCCI because the first BCCI lost the original information.

We also identified nine cases where Code Enforcement gave the RPs conflicting dates on when to submit plans and obtain permits. On average, the dates the CEI and BCCI provided to RPs differed by 11 days. However, in one case the date the BCCI and the CEI told the RP to obtain a required permit differed by 40 days. According to Code Enforcement, it advised the BCCIs to not provide conflicting information on compliance dates. However, during a meeting with several CEIs, some of them stated that this situation still occurs.

In addition, we identified three cases where the BCCI made his initial Building Code Compliance inspection after the final compliance date the CEI had specified in the CO. In one of these cases, the BCCI did not go to the property to conduct the initial Building Code Compliance inspection until almost 4 months after the final compliance date the CEI had indicated in the CO.

Code Enforcement has implemented new procedures that place the responsibility of scheduling inspections solely with the CEI. In addition, only the CEI can amend the CO and change compliance dates. Code Enforcement is also in the process of implementing a new case tracking system that should enhance information sharing and milestone monitoring between CEIs and BCCIs. Beginning in 1999-2000 Code Enforcement will add a temporary Supervising Building Inspector to the BCCP to address backlogged cases, supervise the BCCIs, and assess their performance and staffing needs of the Program.

The BCCP is still, however, organizationally diffused with no one person directly responsible for its day to day operations. The CEIs still must establish the compliance dates after their initial visit and successfully manage the Building Code Compliance cases to their final resolution. However, the CEIs sometimes establish these compliance dates before the BCCIs make their initial inspection and prepare an Inspection Notice that specifies what Building Code violations exist and what the RP must do to correct them. Further, CEIs must rely on the expertise and efforts of the BCCIs over whom the CEIs have no authority. In our opinion, Code Enforcement needs to reassess and modify its reporting structures so as to integrate the BCCIs more closely into the work of the Service Area Teams.

We recommend that Code Enforcement:

Recommendation #2

Reassess and modify its reporting structures so as to more closely integrate the Building Code Compliance Inspectors into the Service Area Teams, improve the coordination and the communication between the Code Enforcement Inspectors and the Building Code Compliance Inspectors and allow the Service Area Supervisors some input in directing, prioritizing, and appraising the work of the Building Code Compliance Inspectors. (Priority 3)

BCCP Processes Are Inefficient And Ineffective

The BCCP is not as efficient or effective, as it should be. Code Enforcement uses more resources and time to correct Building Code violations than is necessary. Specifically, Code Enforcement requires its BCCIs to review all RP submitted construction plans. This is both a drain on BCCI resources and inefficient in that the Building Division can perform these reviews much faster. As a result, Code Enforcement's current plan checking process significantly increases the time necessary to resolve Building Code violations and reduces the amount of time BCCIs have to conduct inspections. In addition, Code Enforcement is responsible for certain types of Building Code violations that the Building Division should handle.

Building Code Compliance Program Plan Check Process Is A Drain On Resources And Increases The Time To Resolve Building Code Violations

BCCIs are required to review all the construction plans that the RPs must submit to obtain a Building permit to correct the violations Code Enforcement identified in the CO. If the BCCI requires the RP to revise the plan, the RP must make the changes and resubmit the plans. In some cases, the BCCIs help the RPs revise those plans.

We found that the plan checking process is a significant drain on the BCCIs time. Based on our analysis of Code Enforcement data for the months of January 1999 to April 1999, we determined that on average, RPs submitted 46 plans a month. This includes plans that RPs resubmitted after making required revisions. Consequently, the BCCIs generally use their morning hours to review plans and usually do not begin conducting site inspections before 11:00 A.M. As a result, the time BCCIs have to do site inspections is significantly reduced.

Having the BCCIs review RP-submitted plans not only is a drain on BCCIs' time but significantly increases the time

needed to correct Building Code violations. For instance, we found that RPs have to wait from 2 to 3 weeks before a BCCI can even begin to review their construction plans. If the RPs plans require changes, then even more time will expire before an RP can obtain his or her permit.

For example, in one case, the CO required the RP to prepare construction plans and obtain the required permits by April 6, 1999. The RP submitted the plans on March 16, 1999, well before the required date. The BCCI assigned to the case reviewed and rejected the plans. The RP resubmitted the plans on March 26, 1999; the BCCI again rejected the plans. The RP resubmitted the plans and the BCCI subsequently rejected them again. The RP submitted the plans for a fourth time on May 6, 1999 and the BCCI finally approved them on May 18, 1999, over 2 months after the RP initially submitted them. According to the CEI, the BCCI gave final clearance for the permit on July 21, 1999, almost 1½ months after the original deadline specified on the CO of June 8, 1999.

Based on our analysis of plan check data for 75 cases covering the months of January 1999 to April 1999, on average, it took BCCIs 65 days or over 2 months to review and approve construction plans.⁶ We do not have more definitive data on plan check timeframes because Code Enforcement does not currently have an adequate system for capturing that information. In addition, Code Enforcement has established no goals or management information for plan checking. We had to review specific case files to develop the information cited above.

Conversely, the Building Division has a separate group that is dedicated solely to plan checking and site inspections. The Building Division usually reviews and approves construction plans for projects such as garage conversions and room additions, in about an hour. The Building Division staff dedicated to plan checks are the City's plan checking experts. As such, they can help the RPs successfully navigate the process and eliminate the need for RPs to resubmit plans. Further, unlike Code Enforcement, the Building Division has an established processing goal for plan checking of one hour for the type of plans BCCIs took 65 days to process for our

⁶ This average is a conservative estimate because it does not take into account that some RPs may have submitted plans earlier than January 1999. The information we collected only reflects the dates the RPs resubmitted plans. In addition, in 28 of the 75 cases the RP had not obtained permits by June 4, 1999, which was the last date we used in our calculation.

sampled cases. In addition, the Building Division measures actual performance against that one hour goal.

In our opinion, Code Enforcement needs to relieve BCCIs of plan checking responsibilities by either transferring the plan checking process to the Building Division or dedicating staff to the plan checking process. By so doing, the BCCIs will have more time to do site inspections and address backlogged cases.

We recommend that Code Enforcement:

Recommendation #3

**Transfer the plan check process from the Building Code Compliance Inspectors to the Building Division.
(Priority 3)**

Code Enforcement Manages Cases That Should Be Referred To The Building Division

Code Enforcement is responsible for Building Code violations that the Building Division should handle. Specifically, Code Enforcement is responsible for cases where Code Enforcement identifies construction violations early in the process or where the RP begins new construction projects while trying to resolve prior violations. These types of cases consume a significant amount of BCCI time and Code Enforcement resources. The following cases illustrate the point.

- In December 1997 Code Enforcement identified a garage that was in the process of being converted to a living area. The CEI ordered the RP to cease all construction. The RP obtained the required permit in January 1998 and during the succeeding year the BCCI probably made at least six⁷ site visits to inspect plumbing, mechanical, electrical, and building components. This case is still open and has been part of Code Enforcement's workload for over 19 months.
- Code Enforcement received a complaint about a garage conversion in November 1997. Upon conducting a site inspection, the CEI discovered a garage conversion that included some electrical work. The RP subsequently obtained a permit to legally convert the garage by adding plumbing, mechanical, and framing work. The BCCI assigned to the case made at least six⁷ site visits and inspections. Code Enforcement finally closed this case on May 11, 1999, - over 18 months after Code

⁷ We could not determine the exact number of BCCI inspections because the BCCIs did not prepare inspection reports to document all site inspections.

Enforcement first identified the illegal garage conversion.

- In July 1996, Code Enforcement identified an unpermitted addition to the rear of a house. Code Enforcement required the RP to either remove the room or submit plans and obtain the required permits to keep the addition. The RP did not obtain the required permit until January 1998. The permit the RP obtained was not only for the rear addition, but also for a garage conversion and the alteration of the main hallway in the house. The garage conversion and hallway alteration were not part of the original violation. Instead, these items were new construction. Despite this, Code Enforcement still assumed full responsibility for all three construction projects. The BCCI has made about 20⁸ inspections since January 1998. This case has been part of Code Enforcement's workload for over 3 years.

The above-cited cases demonstrate that the BCCIs are performing inspections that should be referred to the Building Division's inspectors who provide inspection services for residential construction in the City.

It should be noted that on February 24, 1999, Code Enforcement issued a memorandum that stated in part

Pre-build vs not pre-built: Generally, when there are code enforcement issues in conjunction with new construction, two separate permits will be required, one to correct the code enforcement issues and one to address the new construction. The code enforcement issues will be addressed by the Code Enforcement Building Inspectors and the new construction will be addressed by the Building Division. However, when the new construction is minor in nature and is an integral part of the code violation corrections, generally under 120 square feet, it will be addressed by the Code Enforcement Building Inspectors. Replacement of a non-permitted addition will be addressed first by the Code Enforcement Building Inspectors to issue a Demo-Alter permit and then by the Building Division to issue a permit for any new construction.

⁸ We could not determine all of the BCCI inspection because the BCCI did not document all site inspections.

In our opinion, Code Enforcement should expand upon the above memorandum to transfer those cases involving construction projects without required permits that are in an early phase to the Building Division. This will give BCCIs additional time to do site inspections and address backlogged cases.

We recommend that Code Enforcement:

Recommendation #4

Transfer those cases that involve both Building Code violations and new residential construction to the Building Division. (Priority 3)

The written understanding, which Code Enforcement signed in 1996, assigns responsibility to Code Enforcement to handle all Building Code violations and illegal construction where there is no Building permit. In theory and practice, this means that Code Enforcement manages construction cases with no permits even if the construction is in its earliest phase.

As a result, the written understanding between Code Enforcement and the Building Division is a cause of the inefficiencies that are inherent in the current assignment of responsibilities. In our opinion, Code Enforcement and the Building Division should revise the understanding in order to facilitate transferring the plan check process and construction type cases from Code Enforcement to the Building Division.

We recommend that Code Enforcement and the Building Division:

Recommendation #5

Revise the Memorandum of Understanding between Code Enforcement and the Building Division to allow the transfer of the plan review process and the responsibility for residential construction inspections from Code Enforcement to the Building Division. (Priority 3)

Controls Over The BCCP Need To Be Improved

CEIs have not followed set procedures that address critical elements of the BCCP. Specifically, CEIs 1) have not conducted their initial site inspections within specified timeframes; 2) have not adequately assigned or verified cease order compliance dates; and 3) have not properly issued or

enforced COs. In addition, Building Code Compliance case data is not reliable.

Code Enforcement Inspectors Have Not Conducted Initial Site Inspections Within The Specified Timeframes

Code Enforcement's procedures specify the timeframes to conduct initial site inspections to verify complaints. The steps that a CEI is required to take to address a Building Code violation complaint depend on whether the complaint describes a Priority or Immediate violation. Priority violations include construction without a Building permit and Immediate violations include housing issues and construction already completed without a permit.

On Priority cases, the CEI must immediately contact the Complaining Party (CP) to acknowledge receipt, clarify the issues, and advise the RP of the Priority response. The CEI has the option of either making a site visit or contacting the RP. In the case of Immediate violations, the CEI has 24 hours in which to contact the CP to acknowledge receipt, clarify the issues and determine if an immediate response is required. The CEI must then conduct a site inspection within 1 to 3 days of receiving the complaint. The cases in our sample all fell in the Immediate category of violations.

Although Code Enforcement procedures require that CEIs conduct site inspections within one to three days of receiving complaints, we found that in 57 out of the 74 cases (77 percent) we reviewed, CEIs did not conduct a site inspection within the required three-day window. This pattern was generally consistent among active and closed cases. On average, we found that the CEIs conducted their initial inspection almost three weeks after receiving the complaint. Some of these complaints involved individuals living in illegal structures.

For example, we identified two different cases where the CEIs did not conduct the required site inspections until about three months after receiving the complaint. In both instances, the CEIs identified a converted garage that was illegally occupied and ordered the owners to vacate the structures.

Exhibit 2 below shows the number of days from the complaint date to the date of the initial site visit for BCCP cases in our sample.

Exhibit 2 Summary Of Days To Conduct Initial Inspections For Complaints Selected For Testing

Number Of Days To Conduct Initial Inspection	Complaints Tested	
	Number	Percentage
1 to 3 days	17	23.0%
4 to 14 days	30	40.5
15 to 28 days	11	14.9
29 days or more	16	21.6
Total	74	100.0%

Despite specific Code Enforcement procedures that require CEIs to conduct their initial site inspections within 3 days, CEIs conducted 77 percent of their inspections beyond three days. In our opinion, Code Enforcement needs to determine whether the current timeframes are appropriate given the significant difficulty CEIs have in meeting the 3-day requirement. In addition, Code Enforcement needs to monitor that CEIs adhere to its complaint response time requirement.

We recommend that Code Enforcement:

Recommendation #6

Reassess and modify if appropriate its written procedures for conducting an initial site inspection after it receives a complaint, communicate those requirements to the Code Enforcement Inspectors, and ensure adherence to its complaint response time requirement. (Priority 3)

CEIs Have Not Adequately Assigned Or Verified Cease Order Compliance Dates

When, during the course of their inspections, CEIs identify such violations as occupied illegal structures, they order the occupants to vacate the structures, hereafter referred to as cease orders. Code Enforcement procedures allow CEIs some time flexibility when issuing cease orders. This flexibility depends on the type and nature of the violation and the urgency to cease the action. For example:

- CEIs can require individuals to vacate structures that necessitate condemnation immediately or within 48 hours;

- If the situation possess no immediate danger to the occupants and cannot be modified to conform to code, the CEI can allow the occupants 45 days to relocate;
- CEIs can grant up to 6 months if the occupancy can be made legal with permits and there is no danger to the residents;
- For violations where a business is out of zone, the CEI can allow the RP from 24 hours to 7 days to cease operations; and
- Code Enforcement supervisors can grant additional time depending on the circumstances such as length of time at the site and impact on the neighbors.

Under all circumstances, CEIs are required to re-inspect the property as soon as possible after the compliance date has expired.

We found that CEIs did not consistently follow the above procedures when advising RPs of the timeframe requirement for complying with a cease order. For instance, for 4 out of the 13 cases (31 percent) where Code Enforcement procedures allow a maximum of 45 days, the CEI allowed the RP more than the maximum to comply. On average, for these four cases, the CEIs allowed the RPs 54 days to vacate the illegal structures. In one case, the CEI allowed the RP 63 days to vacate an occupied detached garage that had been illegally converted to a living space.

Exhibit 3 below shows the number of days CEIs allowed on cease orders for the cases in our sample.

**Exhibit 3 Summary Of Days Allowed To Cease Occupancy
For Sampled Complaints**

Days Allowed To Cease Occupancy	45 Day Maximum	
	Number	Percentage
45 days or less	9	69%
46 to 90 days	4	31
Total	13	100

Code Enforcement also did not follow procedures in a case dealing with a business operating out of an allowed zone. Code Enforcement allowed one business to operate out of zone for 178 days or almost 6 months with no indication that a Supervisor intervened or that the CEI documented any reasons to grant the extension. In addition, when we physically inspected the property a month after the CEI certified the RP complied with the cease order we found that the business was still operating illegally.

In addition to allowing more time than Code Enforcement's guidelines allow, CEIs did not include a compliance date for ten of the 45 (22 percent) cease orders we tested. Consequently, the RPs did not have a clearly established date for vacating their premises. In fact, in one case, the RP, after receiving an order to vacate, had to call Code Enforcement and ask when he was required to vacate the property.

Finally, cases where the CEI could allow the RP as much as six months to vacate, we found that the amount of time the CEI allowed varied from an immediate order to vacate to as much as 119 days. In one case, the CEI allowed the responsible party 100 days to vacate an illegally converted garage even though a CEI had previously noted the illegal structure over 9 years earlier.

Our review of cease orders also found that CEIs did not effectively conduct follow up inspections to verify compliance with these orders. Code Enforcement procedures require that CEIs re-inspect the property as soon as possible after the cease order-specified date. For the 35 cases in our sample for which a cease order date existed, the CEIs conducted their follow up inspections within a week to verify compliance for 15 cases. However, for 20 of these 35 cases (57 percent), the CEIs either conducted their follow-up inspections over one week after the cease order-specified date or never conducted them at all.

For example, in one case Code Enforcement ordered the occupants of an illegal accessory structure to vacate. However, no one from Code Enforcement verified compliance with the cease order until 16 months later. In another instance, the CEI who issued the order to vacate did not return to the property until almost 10 months after the initial inspection. Upon revisiting the property, the CEI found the illegal structure that was the subject of the cease order was still occupied.

Exhibit 4 below shows the number of days CEIs took to follow up to verify compliance with cease orders in our sample.

Exhibit 4 Summary Of Days Required To Verify Compliance With Cease Orders For Sampled Complaints

Days Required To Verify Compliance	Cease Orders Tested	
	Number	Percentage
7 days or less	15	33%
More than 7 days	11	25
No Evidence Of Follow-up Inspection	9	20
No Specific Cease Order Date	10	22
Total	45	100%

CEIs have not consistently set cease order dates according to Code Enforcement procedures. More significantly, they have not adequately followed-up on compliance with issued cease orders. In our opinion, Code Enforcement needs to establish specific timeframes for follow-up and monitor CEIs for adherence to those timeframes. This will provide added assurance that situations where individuals are living in illegal and/or potentially dangerous structures are appropriately resolved.

We recommend that Code Enforcement:

Recommendation #7

Establish specific timeframes for verifying compliance with cease orders, communicate those timeframes to Code Enforcement Inspectors and ensure adherence to those time requirements. (Priority 3)

CEIs Have Not Properly Issued Or Enforced Compliance Orders

COs and their requisite dates are critical to correcting a Building Code violation. Compliance dates provide the RP with deadlines for completing required tasks and resolving all violations. The CO should detail the violations, describe what the RP needs to do to correct those violations, and the timeframes for completing all required tasks. The information contained in the CO is the primary standard for measuring the

actions of an RP during an Appeals Hearing Board (AHB)⁹ session.

If the RP does not comply with the CO, the CEI must determine if an extension is warranted. The CEI can extend compliance dates, but such extensions must be documented in an amended CO. CEIs may not give verbal extensions. If an RP has not achieved compliance and a CEI has not granted an extension, then the CEI must prepare the case for the AHB.

Although the compliance date is a critical component of effective enforcement action, we found a number of compliance orders that did not specify a date to correct the violations. For instance, in 7 of the 54 active cases (13 percent) in our sample, Code Enforcement did not specify a compliance date. Furthermore, for 13 of the 63 (21 percent) closed cases we tested, the CEIs failed to specify a compliance date. Moreover, we noted in other cases that the CEIs failed to issue any COs.

We were only able to assess the status of compliance for 26 of 54 active cases we reviewed because the files lacked complete information and because the final compliance dates were not within the scope of our review. In 19 of the 26 cases (73 percent) we could review, the RP exceeded the final compliance deadline by an average of 6½ months. In one case, which has been open for over 23 months, the CEI allowed the RP to exceed the final compliance date by almost 17 months without preparing an amended CO or referring the case to the AHB. As of July 19, 1999, the RP had still not resolved the violations, which included the conversion of a garage to living quarters.

Of the 19 cases we reviewed, none contained any Amended COs to extend the final compliance date and in only one instance did Code Enforcement refer the case to the AHB. In 6 of the 7 cases where the RP complied before the final date, the CEI had already amended each of the COs at least once allowing the RPs, on average, an additional 189 days or 6 months to comply.

For the closed cases in our sample, we were only able to review 32 of 63 cases because of the lack of complete information. In

⁹ The Appeals Hearing Board is a quasi-judicial panel of seven members whom the City Council appoints. Among other duties, the Board hears all administrative hearings and appeals and conducts all administrative abatement action hearings that the City of San Jose Municipal Code or ordinances authorize.

24 out of the 32 sampled cases (75 percent), the RP exceeded the final compliance deadline by an average of 2½ months. In one of the cases we reviewed, the RP exceeded the final date by 14 months and the CEI did not amend the CO or refer the case to the AHB. Although the RP eventually resolved the violations, which consisted of the conversion of an accessory structure to living quarters, the case remained open for over 16 months.

Code Enforcement procedures dictate the timeframes that CEIs must impose on RPs for accomplishing such required tasks as submitting construction plans, obtaining all permits, and completing all construction. These timeframes do not consider the complexity or the magnitude of the project.

In most cases CEIs issue COs that contain deadlines shortly after conducting their initial site inspection but before the BCCI conducts his or her initial Building Code Compliance inspection. Sometimes, CEIs issue an initial CO that does not contain a final compliance date, but only a date by which the RP must call to schedule a BCCI inspection. After the BCCI conducts his or her initial inspection, the CEI issues another CO that indicates the final date by which the RP must resolve all Building Code violations. It is important to note that CEIs never consulted with the BCCIs before establishing CO deadlines. This is significant because the BCCI is suppose to be Code Enforcement's expert on construction matters and is the best qualified person to estimate how long an RP should need to fix building related defects.

As a result, RPs rarely met the deadlines in the COs we tested. Our review of open and closed cases, for which we could find sufficient information on compliance dates, revealed that in 51 out of 59 cases (86 percent) the RP did not resolve the Building Code violations by the initial compliance date the CEI set. In most cases, the RP simply exceeded the deadline with no action on the part of Code Enforcement. In fewer instances, the CEI merely extended the final compliance date in the CO.

The effective use of COs seems to have a significant impact on the time required to correct violations. This is clearly evident in BCCP cases that have lasted more than one year.

Specifically, we found problems with the CO in 27 of the 31 active and closed BCCP cases that lasted more than one year. For instance, for 87 percent of these cases, Code Enforcement either 1) allowed the final compliance deadline to elapse with

no written extension; 2) failed to provide a final compliance date in the CO; or 3) failed to even issue a CO.

COs are critical pieces of information that Code Enforcement uses for referring cases to the AHB. In addition, how CEIs manage and enforce the compliance dates appears to have a significant impact on the amount of time that a case is active. Despite the significance of the CO, we found that CEIs 1) did not issue final compliance dates; 2) allowed the compliance dates to expire without amending the CO or referring the case to the AHB; and 3) may have issued unrealistic CO deadlines because they did not consult with Code Enforcement's in-house construction experts. In our opinion, Code Enforcement needs to involve BCCIs in setting appropriate CO deadlines for resolving Building Code violations and needs to ensure that CEIs effectively enforce the COs.

We recommend that Code Enforcement:

Recommendation #8

Involve Building Code Compliance Inspectors in determining the amount of time for Responsible Parties to resolve Building Code violations and ensure adherence to the time requirements specified in Compliance Orders. (Priority 3)

Building Code Compliance Case Data Is Not Accurate

Organizations need to ensure that the data they collect is complete, accurate, and consistent to be useful in decision making and monitoring and evaluating performance. We found that Code Enforcement's Building Code Compliance data is not accurate and management cannot rely upon it to monitor or evaluate the performance of the BCCP. However, Code Enforcement uses the workload data to 1) determine the BCCP workload; 2) divide cases among the BCCIs; 3) evaluate BCCI performance; and 4) justify increases in BCCP staffing levels.

Prior to submitting its 1998-99 budget, Code Enforcement used the BCCP workload dates to estimate that the BCCP received 975 new cases a year and closed 720. At this rate, Code Enforcement estimated that a backlog of 255 cases was being created each year. The addition of one BCCI would help to keep the backlog of cases from increasing because BCCP workload data showed that each BCCI completed about 240 cases a year. We found, however, that the BCCP workload data

that Code Enforcement relied upon when preparing its 1998-99 budget data contained some errors.

Of the 62 closed cases we reviewed, Code Enforcement closed seven (11 percent) of them prior to 1998. This was contrary to the information in the Building Code Compliance database. Similarly, 12 of the 66 cases (18 percent) we reviewed that Code Enforcement closed prior to January 1999 were still shown in the database to be active as of January 21, 1999. When we reviewed one such case, we discovered that Code Enforcement had actually closed the case over a year earlier in December 1997. We also identified a case that had no activity since May 1997 and yet was still shown to be active as of January 21, 1999.

Code Enforcement recently merged its BCCP data into its new case management data system without verifying its accuracy. At the same time, it merged data from its VAX system that in many cases duplicated the same information contained in the BCCP data system. The result is similar information that is unnecessarily taking up computer memory room, confusing Code Enforcement staff, and requiring more time than necessary to review.

Code Enforcement needs accurate data as it and the other City Departments move toward performance measurement. The Administration has in the past recognized deficiencies in Code Enforcement data systems and the need for improvement. In the 1995-96 mid-year budget review, the Administration noted that the major issue impeding Code Enforcement's ability to participate in the Pilot Budget Program was a lack of accessible and accurate performance data. The review noted that Code Enforcement was in the process of developing a new database that could effectively gather the appropriate information.

In our opinion, Code Enforcement needs to review its BCCP database to ensure that all records are accurate. In addition, Code Enforcement needs to develop reports that allow its managers to determine the status of all BCCP cases and the effectiveness of the BCCP.

We recommend that Code Enforcement:

Recommendation #9

Ensure the reliability and accuracy of the information in its new data system and develop reports that allow its managers and supervisors to assess the status of individual cases and the Building Code Compliance Program. (Priority 3)

CONCLUSION

Code Enforcement expends more time and resources than necessary to resolve Building Code Compliance cases. This lack of efficient and timely resolution can be attributed to several factors including the absence of a clear BCCP mission, goals and objectives, a problematic organizational structure, processes that are inefficient and ineffective, and an inadequate system of controls. In order to improve the program and the delivery of its services, Code Enforcement needs to establish a clear direction that can help identify what employees should contribute for the organization's success. By having a clear mission statement and definitive goals and objectives, Code Enforcement can develop appropriate written procedures and timeliness requirements that it can communicate to its staff and review for adherence. Code Enforcement should also collect accurate and reliable management information in order to assess the status of individual cases and the BCCP as a whole.

RECOMMENDATIONS

We recommend that Code Enforcement:

Recommendation #1 Develop a clear mission, goals, and objectives for the Building Code Compliance Program. (Priority 3)

Recommendation #2 Reassess and modify its reporting structures so as to more closely integrate the Building Code Compliance Inspectors into the Service Area Teams, improve the coordination and the communication between the Code Enforcement Inspectors and the Building Code Compliance Inspectors and allow the Service Area Supervisors some input in directing, prioritizing, and appraising the work of the Building Code Compliance Inspectors. (Priority 3)

Recommendation #3 **Either transfer the plan checking process from the Building Code Compliance Inspectors to the Building Division or dedicate staff to the plan checking process. (Priority 3)**

Recommendation #4 **Transfer cases involving construction projects without required permits that are in an early phase to the Building Division. (Priority 3)**

We recommend that Code Enforcement and the Building Division:

Recommendation #5 **Revise the written understanding between Code Enforcement and the Building Division to allow for the implementation of Recommendations 3 and 4. (Priority 3)**

We recommend that Code Enforcement:

Recommendation #6 **Reassess and modify if appropriate its written procedures for conducting an initial site inspection after it receives a complaint, communicate those requirements to the Code Enforcement Inspectors, and ensure adherence to its complaint response time requirement. (Priority 3)**

Recommendation #7 **Establish specific timeframes for verifying compliance with cease orders, communicate those timeframes to Code Enforcement Inspectors and ensure adherence to those time requirements. (Priority 3)**

Recommendation #8 **Involve Building Code Compliance Inspectors in determining the amount of time for Responsible Parties to resolve Building Code violations and ensure adherence to the time requirements specified in Compliance Orders. (Priority 3)**

Recommendation #9 **Ensure the reliability and accuracy of the information in its new data system and develop reports that allow its managers and supervisors to assess the status of individual cases and the Building Code Compliance Program. (Priority 3)**

Finding II

Code Enforcement Shelved 1,300 Building Code Compliance Program Backlogged Cases Without Adequate Documentation Of Review

In 1996-97, the Building Division transferred about 1,600 backlogged Building Code Compliance Program (BCCP) cases to Code Enforcement for resolution. We found that Code Enforcement eventually shelved about 1,300 of these BCCP cases without benefit of definitive written criteria or adequate review documentation. We identified that some of these shelved cases involved health and safety violations that Code Enforcement should have pursued but did not. Code Enforcement should develop definitive written criteria to use when deciding which of the 1,300 shelved BCCP cases require further attention and resolve any such cases involving serious health, safety, and environmental issues.

The Building Division Transferred 1,600 Backlogged Cases To Code Enforcement

By 1996, when the BCCP was still in the Building Division of the Planning and Building Department, the limited number of BCCIs and the large number of open cases created a significant backlog of BCCP cases. At that time the BCCIs’ top priority was to work on the new cases coming into the system. In 1996-97, the Building Division transferred both the BCCP and 1,600 backlogged cases to Code Enforcement. By December 1997, Code Enforcement had assigned its three-member Building Code Compliance team over 2,200 active cases.

In 1998, Code Enforcement estimated that it would take seven temporary BCCIs to address the 1,600 backlogged cases. Code Enforcement subsequently requested and received a temporary BCCI position to review and address the 1,600 backlogged cases. However, Code Enforcement assigned the new BCCI to work on active cases, not the 1,600 backlogged cases.

Code Enforcement Shelved 1,300 Cases Without Adequate Documentation Of Review

According to the Building Code Compliance Inspector (BCCI) Supervisor, he reviewed all the 1,600 cases the Building Division transferred to Code Enforcement in 1996-97 to determine which ones had significant health and safety violations requiring further Code Enforcement review. The BCCI Supervisor directed that those cases he deemed to be insignificant and/or too old be boxed and shelved in the closed

files room. The Deputy Director asked the BCCI Supervisor to shelve as many cases as possible.

The BCCI Supervisor made his determination regarding cases to be shelved without benefit of any written criteria. As a result, the BCCI Supervisor eventually boxed and shelved in the filing room about 1,300 (81 percent) cases and referred an estimated 300 cases for further Code Enforcement action. We could not determine an exact number for the backlogged cases the BCCI Supervisor referred for follow-up or their current status because Code Enforcement's records do not specifically identify these cases.

*Code Enforcement
Should Have
Pursued Some Of
The Shelved Cases*

We reviewed 60 of the 1,300 shelved BCCP cases and found that some of the cases involved health and safety issues that Code Enforcement should have pursued but did not. For example, in March 1995, Code Enforcement identified a property where the Responsible Party (RP) had converted a basement to a living space and had installed a kitchen. The Code Enforcement Inspector (CEI) charged with the case issued a Compliance Order (CO) directing the RP to cease using the basement for anything other than storage. There is no indication that the RP ever complied with the CO.

In another case, during a compliance inspection in April 1994, a CEI identified numerous violations at a property that included unauthorized electrical work, a bedroom addition, and an unsafe wood-burning fireplace. There is no indication that the RP ever resolved the violations on this property.

Our sample also included seven cases (12 percent) where the RPs paid the City for compliance inspections that Code Enforcement never performed.

*No Definitive
Written Criteria For
Evaluating
Backlogged BCCP
Cases*

Code Enforcement managers provided BCCP staff with limited and unclear direction on how to effectively and logically address the 1,600 BCCP cases the Building Division transferred to Code Enforcement in 1996-97. Specifically, Code Enforcement did not provide definitive written criteria for its staff to use when deciding which of the backlogged cases should be shelved and which should be pursued. Instead, Code Enforcement staff generally tried to reduce to the fullest extent possible the number of backlogged cases by shelving less serious and older cases. In our opinion, Code Enforcement needs to develop definitive written criteria to use when deciding which of the shelved BCCP cases require further attention. By doing so, Code Enforcement will address any

serious health, safety, or environmental issues currently residing in shelved BCCP cases.

We recommend that Code Enforcement:

Recommendation #10

Develop definitive written criteria to use when deciding which of the shelved BCCP cases should receive further attention and resolve any such cases involving serious health, safety, or environmental issues. (Priority 3)

CONCLUSION

In 1996-97, the Building Division transferred about 1,600 backlogged cases to Code Enforcement for resolution. We found, however, that Code Enforcement shelved about 1,300 of these cases without benefit of definitive written criteria or adequate review documentation. We identified that some of these shelved cases involved health and safety violations. Code Enforcement should have developed definitive written criteria before deciding which of these 1,300 cases to shelve and which required further attention to resolve serious health, safety, or environmental issues.

RECOMMENDATIONS

We recommend that Code Enforcement:

Recommendation #10 Develop definitive written criteria to use when deciding which of the shelved BCCP cases should receive further attention and resolve any such cases involving serious health, safety, or environmental issues. (Priority 3)

Finding III

The General Fund Supports \$650,000 Per Year Of Building Code Compliance Programs And Planning Development Review Efforts That Building And Planning Divisions' Fees Should Fund

The Mayor and the City Council have directed all City Departments to achieve 100 percent cost recovery for fee-related programs. However, our review found that the Planning, Building, and Code Enforcement Department (Department) has not achieved and will not achieve 100 percent cost recovery for several of its programs until it factors in the cost of Code Enforcement Inspectors (CEIs) that work in support of these fee-based programs. Specifically, our review found that the General Fund supports about \$650,000 per year of Planning, Building, and Code Enforcement Department activities that Building and Planning Fees should fund. Code Enforcement Inspectors undertake these activities in support of the Building Code Compliance Program (BCCP) and the Planning Division's development review efforts. The Building and Planning Divisions currently have the revenues available to fund these activities in their respective fee-reserve funds. By identifying all the Code Enforcement costs that are related to the BCCP and Planning activities and including those costs in future cost recovery calculations, the General Fund will save \$650,00 per year.

The BCCP Is Not 100 Percent Cost Recovery

In March 1999, the Mayor directed the Administration to achieve 100 percent cost recovery for all fee-related programs. In its 1999-2000 budget message, the Planning, Building, and Code Enforcement Department (Department) indicated that 100 percent of the cost of the BCCP would be recovered through Building Fees. For 1999-2000, the Department's cost recovery calculation included the cost of five Building Code Compliance Inspectors (BCCI) and other staff who assist in resolving Building Code violations. The cost for these staff is approximately \$639,000, which is to be recovered through Building Fees.

We found that the Department's cost recovery calculation does not include about \$473,200 for Code Enforcement Inspectors (CEIs) who manage and resolve Building Code Compliance violations. Although the General Fund supports these CEIs,

they are responsible for many of the duties of managing Building Code Compliance cases since the Administration transferred the BCCP to Code Enforcement in 1996. When the BCCP was part of other departments, the BCCIs who were responsible for these same duties were 100 fee funded.

Code Enforcement has 13 CEIs devoting about 40 percent of their time to BCCP duties that include conducting initial inspections, tracking the Responsible Party’s (RP) resolution of violations, and ensuring final compliance. Yet, the Department does not include the work of these CEIs in its cost recovery calculation. Thus, the BCCP is not 100 percent cost recovery and the General Fund is paying for CEI activities that the Department should include in its cost recovery calculation.

As Exhibit 5 shows, in 1999-2000 the General Fund will pay for \$473,200 of CEI costs that should be Building Fees funded.

**Exhibit 5 Estimate Of General Fund Support For CEI Costs
On BCCP Cases In 1999-2000 That Should Be
Building Fees Funded**

Number Of CEIs Working On BCCP Cases	Total CEI Cost ¹⁰	Amount Of CEI Time Devoted To BCCP Cases	Total General Fund Support For CEI Costs That Should Be Building Fees Funded
13	\$1,183,000	40%	\$473,200

The Department has funds available to cover the costs of the CEIs duties in the BCCP. The Building Division’s Fee Reserve Fund was about \$2.6 million as of September 1999. Further, in 1998-99 the Division collected nearly \$17 million in Building Fees of which \$473,200 would represent only 2.8 percent.

**Planning Fees Are
Not 100 Percent
Cost Recovery**

The Department also does not include the CEI’s time devoted to Planning Division issues in its cost recovery calculation for Planning Fees. This is another program that is supposed to be 100 percent cost recovery. The CEI duties in this area include investigating and enforcing zoning ordinances. According to Code Enforcement, some of its investigations lead to individuals acquiring Planning permits and others result in removing unauthorized structures or businesses. These efforts are directly related to the Planning Division’s positions that are fee funded. In addition, as part of the 1999-2000 budget, the

¹⁰ Based on 1999-2000 average CEI salaries and benefits.

Department deleted a CEI position and added a Planner II to provide planning consulting services to Code Enforcement. Exhibit 6 shows that the General Fund pays for an estimated \$177,450 of CEI costs directly supporting the work of the Planning Division that should be Planning Fees funded.

Exhibit 6 Estimate Of The General Fund Support For CEI Costs On Planning Cases In 1999-2000 That Should Be Planning Fees Funded

Number Of CEIs Working On BCCP Cases	Total CEI Cost ¹⁰	Amount Of CEI Time Devoted To Planning Division Issues	Total General Fund Support For CEI Costs That Should Be Planning Fees Funded
13	\$1,183,000	15%	\$177,450

The Planning Division's Fee Reserve Fund was \$1,037,000 as of September 1999. In 1998-99, the Division collected \$4,082,436 in Planning Fees, of which \$177,450 would represent only 4.3 percent.

**\$650,000 In
Unrecovered Costs**

In total, we estimate the General Fund supports about \$650,000 in CEI costs that the Department should have included in its cost recovery calculations. Our \$650,000 estimate includes \$473,200 that should be Building Fees funded and \$177,450 that should be Planning Fees funded. In our opinion, the Department should identify all Code Enforcement costs that support Planning and Building Division fee-based programs, reimburse the General Fund for all such identified costs, and include them in future cost recovery fee calculations.

We recommend that the Planning, Building, and Code Enforcement Department:

Recommendation #11

**Fully identify all Code Enforcement costs that support Planning and Building Division fee-based programs.
(Priority 2)**

¹⁰ Based on 1999-2000 average CEI salaries and benefits.

We further recommend that the City Council direct the City Attorney to:

Recommendation #12

Research the feasibility of including those costs identified in Recommendation #11 in Building Fees, Planning Fees, or other non-General Fund sources. (Priority 2)

CONCLUSION

The Mayor and the City Council have directed all City Departments to achieve 100 percent cost recovery for fee-related programs. However, we found that the Department has not achieved and will not achieve 100 percent cost recovery for several of its programs until it factors in the cost of the CEIs that work in support of these fee-based programs. Specifically, we found that Department utilizes about \$650,000 of General Fund monies to pay for activities that Building and Planning Fees should fund. CEIs undertake these activities in support of the BCCP and the Planning Division’s development review efforts. The Building and Planning Divisions have enough revenues in their respective fee-reserve funds to fund these CEI activities. By including these CEI activities in its cost recovery calculations the Department will save the General Fund about \$650,000 and comply with the Mayor and City Council’s direction.

RECOMMENDATIONS

We recommend that the Planning, Building, and Code Enforcement Department:

Recommendation #11 Fully identify all Code Enforcement costs that support Planning and Building Division fee-based programs. (Priority 2)

We further recommend that the City Council direct the City Attorney to:

Recommendation #12 Research the feasibility of including those costs identified in Recommendation #11 in Building Fees, Planning Fees, or other non-General Fund sources. (Priority 2)